



Commonwealth of Massachusetts  
Office of the State Auditor  
Suzanne M. Bump

*Making government work better*

Official Audit Report – Issued February 12, 2015

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## Fitchburg Housing Authority

For the period January 1, 2012 through December 31, 2013





Commonwealth of Massachusetts  
Office of the State Auditor  
Suzanne M. Bump

*Making government work better*

February 12, 2015

Mr. Paul Fontaine, Chair  
Fitchburg Housing Authority  
100 Main Street  
Leominster, MA 01453

Dear Chairman Fontaine:

I am pleased to provide this performance audit of the Fitchburg Housing Authority. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, January 1, 2012 through December 31, 2013. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

I would also like to express my appreciation to the Fitchburg Housing Authority for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMB", written in a cursive style.

Suzanne M. Bump  
Auditor of the Commonwealth

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## EXECUTIVE SUMMARY

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor has conducted an audit of certain activities of the Fitchburg Housing Authority for the period January 1, 2012 through December 31, 2013.

In this performance audit, we reviewed and assessed selected financial and management activities of the Authority, such as financial operations, tenant eligibility, procurement of goods and services, site inspections, contracting and leasing, cost allocation, and compliance with reporting requirements.

Below is a summary of our findings and recommendations, with links to each page listed.

<b>Finding 1</b> <b>Page <a href="#">7</a></b>	During the audit period, 321 of the Authority's units for families and elderly residents were vacant for longer than the 21-day period recommended by the Department of Housing and Community Development (DHCD). As a result, the Authority may have lost as much as \$458,599 in potential rental income, and eligible applicants in need of state-aided housing may not have been placed in housing on a timely basis.
<b>Recommendation</b> <b>Page <a href="#">8</a></b>	The Authority should take the measures necessary to ensure that it fully complies with DHCD's guidance for the turnaround of vacant units.
<b>Finding 2</b> <b>Page <a href="#">9</a></b>	The Authority did not inspect dwelling units annually as required by DHCD's Property Maintenance Guide. Therefore, any safety and sanitary deficiencies may not have been corrected as needed.
<b>Recommendation</b> <b>Page <a href="#">9</a></b>	The Authority should ensure that it complies with DHCD's guidance and that it schedules and conducts annual unit inspections.
<b>Finding 3</b> <b>Page <a href="#">10</a></b>	During the audit, the Authority could not provide an inventory list of its state-owned furniture and equipment. We could not verify that the Authority had performed an annual physical inventory or knew the quantities, values, and locations of its state-owned assets. This could mean an increased risk of undetected loss, theft, or misuse of those assets.
<b>Recommendation</b> <b>Page <a href="#">11</a></b>	The Authority should prepare a current inventory list to establish a formal system for inventory control over furniture and equipment, including an annual physical inventory that is reconcilable to the equipment record.
<b>Finding 4</b> <b>Page <a href="#">11</a></b>	The Authority's tenant accounts-receivable records showed \$9,523 owed to former family tenants as of December 31, 2013. The Authority believes that these balances were not actually owed, but since it could not document this, it is possible that it still owes this money to former tenants.
<b>Recommendation</b> <b>Page <a href="#">12</a></b>	The Authority should perform a review of its tenant accounts-receivable records to verify or correct the amount (\$9,523) reported as owed to former tenants as of December 31, 2013. If the credit balances are found to be correct, the Authority should attempt to return the funds to the appropriate former tenants. If they are found to be incorrect, the Authority should make the appropriate accounting adjustments to its financial record.

<b>Finding 5</b> <b>Page <u>12</u></b>	The Authority's tenant pet deposit records did not match its bank balance; its records showed a balance that was \$5,480 less than its true bank balance. Without accurate records, the Authority may not be able to accurately return tenant pet deposits and interest. In addition, some deposits may need to be submitted to the Commonwealth as abandoned property.
<b>Recommendations</b> <b>Page <u>13</u></b>	<ol style="list-style-type: none"><li>1. The Authority should review its pet deposit bank account and individual tenant records to prepare and maintain a complete and up-to-date list of all individual tenant pet deposit balances. If money is owed to tenants who have moved out, the Authority should attempt to return it to them or submit it to the Commonwealth if it is considered abandoned property under Chapter 200A of the General Laws.</li><li>2. The Authority should maintain the tenant pet deposit account list so as to reflect the accurate current balance for each tenant.</li><li>3. The Authority should periodically reconcile the tenant pet deposit account list to the pet deposit bank balance.</li></ol>

## OVERVIEW OF AUDITED ENTITY

The Fitchburg Housing Authority is authorized by, and operates under, the provisions of Chapter 121B of the Massachusetts General Laws, as amended. Its administrative offices are located at the office of the Leominster Housing Authority, 100 Main Street, in Leominster, Massachusetts. The Fitchburg Housing Authority manages and oversees 160 units of state housing for low-income families, 359 units of state housing for elderly tenants, 15 units of state scattered housing for low-income families, and 26 units for special-needs tenants. The Authority also managed 39 vouchers under the Massachusetts Rental Voucher Program and the Alternate Voucher Program, and an additional 219 units of federal housing, as of December 31, 2013.

During the audit period, the Authority's board of commissioners appointed the Leominster Housing Authority to act as its executive director, to manage the day-to-day operations of the Fitchburg Housing Authority, effective August 22, 2013. The Leominster Housing Authority manages the operations within the Leominster Housing Authority consortium, which is made up of the Leominster, Sterling, Lunenburg, and Fitchburg Housing Authorities. Although the Authorities are managed by the Leominster Housing Authority, they all still maintain separate administrative and accounting functions, and each Authority has a separate, independently operated five-member board of commissioners.

On October 17, 2013, the Management Services Agreement (establishing the terms and conditions under which the Leominster Housing Authority would provide assistance in the day-to-day operations of the Fitchburg Housing Authority) was signed by the Leominster Housing Authority, the Fitchburg Housing Authority, and the Department of Housing and Community Development; it was effective September 18, 2013.

## AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Fitchburg Housing Authority for the period January 1, 2012 through December 31, 2013.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is a list of our audit objectives, indicating each question we intended our audit to answer; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in the audit findings.

Objective	Conclusion
1. Were the Authority's expenditures allowable and related to Authority operations?	Yes
2. Did the Authority properly collect revenue, including rent, and report its sources?	No; see Finding <u>1</u>
3. Did the Authority determine tenant eligibility, placement, and monthly rental charges in accordance with the Department of Housing and Community Development's (DHCD's) regulations?	Yes
4. Were the Authority's site inspections adequate to ensure that housing units met safety and sanitation requirements?	No; see Finding <u>2</u>
5. Did the Authority have effective controls in place to safeguard its assets?	No; see Finding <u>3</u>
6. Did the Authority allocate shared costs under a plan that reflected an equitable distribution between state and federal programs?	Yes
7. Did the Authority comply with DHCD's financial reporting and data collection requirements?	Yes
8. If any modernization money was awarded, was it spent in accordance with DHCD regulations?	Yes

In addition, during the course of our audit work, we found that the Authority may have had inaccurate accounts-receivable records and deposit records, as discussed in Findings 4 and 5.

Because of the replacement of key senior personnel (including the executive director, assistant executive director, and head bookkeeper) at the Fitchburg Housing Authority, we were unable to obtain adequate evidence to fully evaluate the condition of relevant internal controls. Therefore, we increased our audit testing to minimize the risk of reaching incorrect conclusions.

To achieve our audit objectives, we conducted audit testing in the following areas:

- We reviewed the former executive director's salary, compared it to the approved budget for proper program allocations, and analyzed the final payout agreement.
- We reviewed operating subsidies and verified that the amount the Authority earned was consistent with the amount it received from DHCD.
- We reviewed the validity and accuracy of the Authority's accounts-receivable system to determine whether tenant rent balances were properly recorded and reported.
- We reviewed the Authority's cash management and investment policies and practices by reviewing bank statements and bank reconciliations and verifying that its deposits were fully insured.
- We reviewed 60 of 1,082 general expenditures for appropriateness and completeness.
- We reviewed procedures for maintaining furniture and equipment and determined the adequacy of the Authority's system to protect, and account for, its assets in accordance with DHCD regulations.
- We reviewed and verified the Authority's DHCD-approved operating budgets for fiscal years 2012 and 2013 and compared them to actual expenditures.
- We reviewed the Authority's cost allocation plan methodology to determine whether it was appropriate and reasonable.
- We selected the last 10 tenants housed under the Authority's programs for elderly and family tenants to determine whether the tenants were selected in accordance with DHCD regulations.
- We reviewed the vacancy records to determine whether the Authority adhered to DHCD procedures for preparing and filling vacant housing units.
- We tested 30 tenant files to verify that rent charges were calculated properly and in accordance with DHCD guidelines.
- We tested 8 out of 39 Massachusetts Rental Voucher Program annual rent determinations to verify that rents were calculated properly and in accordance with DHCD guidelines.



- We reviewed site-inspection procedures and records to verify compliance with DHCD inspection requirements.
- We tested 2 out of 10 DHCD modernization grants to verify that contracts were awarded properly and that funds were received and disbursed in accordance with the contracts.
- We reviewed the adequacy of procedures in effect to collect data and ensure that required reports were complete, accurate, and submitted to DHCD in a timely manner.

We obtained revenue and expenditure information generated from information systems maintained by the Commonwealth and the Authority. We compared this information with source documents and conducted information-security tests to determine the reliability of data. We determined that the data were sufficiently reliable for purposes of this report. Whenever sampling was used, we applied a non-statistical approach, and as a result, we were not able to project our results to the population.

## DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

### 1. Vacant units were not reoccupied within the Department of Housing and Community Development's guidelines.

During the audit period, the Authority had a total of 338 vacant units within its state-aided housing programs for elderly and family tenants, of which 321 units were vacant for longer than the 21 days specified in the Department of Housing and Community Development's (DHCD's) guidelines. The units were vacant for an average of 176 days each. As a result, the Authority may have lost as much as \$458,599 in potential rental income, and eligible applicants in need of state-aided housing may not have been placed in housing on a timely basis.

Details of the vacancies are as follows:

State Housing Program	Average Daily Rent	Number of Housing Units	Total Number of Additional (Past 21) Days Vacant	Potential Lost Income
Chapter 667 (Elderly)	\$7.7277	247	45,255	\$ 349,717
Chapter 200 (Family)	\$7.7370	86	11,920	92,225
Chapter 705 (Family Scattered Sites)	\$7.7800	5	2,141	16,657
<b>Total</b>		<u>338</u>	<u>59,316</u>	<u>\$ 458,599</u>

Note: The above information was obtained from the DHCD's Quarterly Reports on Occupancy/Vacancy, submitted by Fitchburg Housing Authority personnel during the audit period.

### Authoritative Guidance

Chapter 1 of DHCD's Property Maintenance Guide states, in part,

*[DHCD] believes a reasonable outside limit for turning around vacancies is 21 working days where notice has been given. . . . This calculation of time includes all days from the first date on which rent is not collectible (either legally or practically) until the first day on which rent payments resume under the new lease. The maintenance portion of the vacancy process should not take longer than 14 days. Many vacancies should take far less time, such as routine vacancies in elderly buildings, and some will take substantially more. The 21 days should be seen as a good target for your average turnaround time.*

## Reasons for Reoccupation Delays

After conducting a review regarding excessive vacancies during the period October 31, 2012 through December 12, 2012, DHCD stated in a letter to the Authority that it believed that vacancies were due to a lack of senior leadership and management oversight.

In a corrective action plan (dated January 31, 2013) requested by DHCD to address occupancy and unit turnaround time issues and concerns, the Authority's previous executive director stated,

*As we implement this Corrective Action Plan it must be acknowledged that the Authority does not have the resources to completely prepare and implement all of the required plan elements without additional resources and/or technical assistance. Spending staff on preparing some of the requested plan elements only divert staff focus and resources from filling units in a timely fashion and dealing with other operational matters.*

Because the Authority did not fully implement the plan, DHCD ultimately approved replacement of its managers with the Leominster Housing Authority.

## Recommendation

The Authority should take the measures necessary to ensure that it fully complies with DHCD's guidance for the turnaround of vacant units.

## Auditee's Response

*The number one goal of the Leominster Housing Authority has been to deal with the number of vacant units at the [Fitchburg Housing Authority, or FHA]. During the audit period the Board of Commissioners of the FHA, the Executive Staff, and the Massachusetts Department of Housing and Community Development (DHCD) worked to clarify the number of units vacant, the causes for the vacancies and potential efforts to reduce the number, without much success. When the Leominster Housing Authority began its review of the problem it determined that the FHA had not been performing many of the basic tasks necessary to fill vacant apartments. The most important task was intake and processing of applications. The FHA was simply not processing applications in an efficient and effective manner. Second the FHA was not performing the right type of maintenance and modernization, due to years of adversarial relations with DHCD the FHA had not performed the work necessary to re-occupy long term vacant units nor were they concentrating on the normal unit turnover maintenance necessary to reoccupy a large number of apartments.*

*The Leominster Housing Authority began immediately utilizing the years of expert experience of its staff to increase the intake on new applications and process all existing applications. This process included instituting a much higher level of screening of applicants, making the application process easier for applicants and processing all of the information in a more professional manner*

*than had been done in the past. At the same time the Leominster Housing Authority staff performed a physical needs assessment of every building and every vacant apartment to determine the repairs necessary to re-occupy the units. The Executive Director met with DHCD on numerous occasions to ensure that the necessary funding to make the repairs was available and in less than one year the Fitchburg Housing Authority has gone from below 70% occupancy to 95% occupancy.*

## **2. The Authority did not perform annual dwelling-unit inspections.**

During our audit period, the Authority did not inspect dwelling units as required by DHCD's Property Maintenance Guide. Without annual inspections, any safety or sanitary deficiencies in the Authority's state-aided housing units may not be corrected as needed.

### **Authoritative Guidance**

Chapter 3(F) of DHCD's Property Maintenance Guide states,

*The core of your inspection program should be the annual dwelling unit inspection. At least once a year every [local housing authority, or LHA] dwelling unit should be systematically observed by carefully oriented inspectors. In addition, every time a unit becomes vacant it should be inspected so that the necessary repairs can be made to prepare the unit for the next resident. . . .*

*The goal of the annual living unit inspection is to ensure that every unit you own meets the minimum standards for safe, decent and sanitary housing that your authority has adopted. In Massachusetts, this means the unit must at least conform to the standards of Title II of the State Sanitary Code.*

### **Reasons for Lack of Inspections**

Because of the managerial changes at the Authority, we were unable to interview the former management personnel in order to determine why the annual inspections were not performed, and the current personnel were not able to give us that information. The Authority does not have a policy that ensures annual inspections.

### **Recommendation**

The Authority should ensure that it complies with DHCD's guidance and that it schedules and conducts annual unit inspections.

## Auditee's Response

*The Leominster Housing Authority feels that at least some of the annual inspections were conducted during the two year audit period but due to the fact that the inspections cannot be found in the resident files, cannot prove this statement. The Leominster Housing Authority interviewed all FHA staff members in order to determine their potential effectiveness going forward. With this information in hand the Leominster Housing Authority set up a new structure for the management of the FHA. A Director of Facilities Management was hired on February 18, 2014, followed by a dedicated Work Order Clerk and Inspections Clerk. The new Inspections Clerk . . . was trained immediately according to DHCD Inspections standards and was immediately put to work doing the Annual Inspections for all properties in the Fitchburg Housing Authorities' locations. Notices to residents were developed and delivered to each unit within 48 hours of the inspection dates. [The Inspection Clerk] systematically inspected all apartments within the FHA portfolio within the first four months of his employment. This means that all annual housing inspections took place within ten months after October of 2013 when Leominster Housing Authority took over the management of the FHA. Copies of these inspection reports will be available upon request. A schedule for accomplishing the 2015 Annual Inspections has already been put into place.*

### 3. The Authority did not have documentation to substantiate its inventory of assets.

During the audit, the Authority was unable to provide an inventory list of its state-owned furniture and equipment. Without an inventory list of furniture and equipment, we could not verify that the Authority had performed an annual physical inventory count or knew the quantities, values, and/or locations of the state-owned assets in its possession in accordance with DHCD guidelines. The lack of an up-to-date and complete inventory record and annual inventories creates an undue risk of undetected loss, theft, or misuse of assets.

## Authoritative Guidance

Section 15(D) of DHCD's Accounting Manual for State-Aided Housing Programs requires the inventory procedures excerpted below:

- 1. A physical inventory of all Furniture and Non-expendable Equipment must be taken and an inventory list maintained each year.*
- 2. Physical inventory results must be compared to an equipment record and any differences and discrepancies will be reviewed by the LHA for possible adjustments.*

## Reasons for Lack of Inventory List

The Authority's current executive director was unable to explain why there was no inventory list.

## Recommendation

The Authority should prepare a current inventory list to establish a formal system for inventory control over furniture and equipment, including an annual physical inventory that is reconcilable to the equipment record.

## Auditee's Response

*The FHA did maintain an inventory of appliances and equipment for all its developments. They did not however have evidence to show the accuracy of this inventory. The FHA had switched to a new software company in 2010 and that software did not allow for the old inventory to be converted to the new software accurately. Going forward the Leominster Housing Authority has converted the FHA computer software from PHA Web (the weaker software purchased in 2010) to HAB Software, a program that the Leominster staff is very familiar with and will make an accurate inventory possible.*

### **4. The Authority's accounts-receivable records indicated \$9,523 owed to former tenants.**

Our review of the Authority's tenant accounts-receivable records showed \$9,523 in balances owed to former family tenants as of December 31, 2013, possibly as a result of overpaid rent. Current management personnel said they believed that these balances were not actually owed and noted that some of them went as far back as 2003. However, the Authority was unable to give us adequate supporting documentation that the reported balances were incorrect and actually not owed to former tenants. Therefore, there may be tenants who have not received money that they are owed.

## Authoritative Guidance

Section 16(B)(2) of the DHCD Accounting Manual for State-Aided Housing Programs says that LHAs must have "a system to ensure that tenant accounts receivable are properly recorded and all cash collection for tenants are reconciled to the total tenants accounts receivable balance."

## Reasons for Tenant Credit Balances

Because of the managerial changes at the Authority, the new managers had not yet determined why these balances were recorded and whether they were actually owed to tenants as of December 31, 2013.

## Recommendation

The Authority should perform a review of its tenant accounts-receivable records to verify or correct the amount (\$9,523) reported as owed to former tenants as of December 31, 2013. If the credit balances are found to be correct, the Authority should attempt to return the funds to the appropriate former tenants. If they are found to be incorrect, the Authority should make the appropriate accounting adjustments to its financial record.

## Auditee's Response

*It has become evident that the tenant record keeping was inadequate and the tenant balances were indeed questionable during the audit period. Before the Leominster Housing Authority disburses the Commonwealth's funds, it must ensure that the credit balances are correct. Therefore we are looking at each tenant's file and re-creating the files of those tenants, who held a credit balance at year end. Once the files are reviewed and the balances are in fact owed to the tenant, we will certainly reimburse any over payment of rent to the tenant or their estate.*

## 5. The Authority's list of tenant pet deposit balances was inaccurate.

Our review of the Authority's tenant pet deposit records indicated a variance of \$5,480 as of December 31, 2013. The Authority's tenant pet deposit<sup>1</sup> records totaled \$7,932, whereas the pet deposit account bank balance was \$13,412. Without accurate records, the Authority may not be able to accurately return tenant pet deposits and the interest earned on each deposit. In addition, certain amounts may be classified as abandoned under Chapter 200A of the Massachusetts General Laws and therefore may be required to be submitted to the Commonwealth.

## Authoritative Guidance

Chapter 186, Section 15B(3)(a), of the General Laws states,

*Any security deposit . . . shall be held in a separate, interest-bearing account in a bank, located within the commonwealth under such terms as will place such deposit beyond the claim of creditors of the lessor, including a foreclosing mortgagee or trustee in bankruptcy, and as will provide for its transfer to a subsequent owner of said property. A receipt shall be given to the tenant within thirty days after such deposit is received by the lessor which receipt shall indicate the name and location of the bank in which the security deposit has been deposited and the amount and account number of said deposit. Failure to comply with this paragraph shall entitle the tenant to immediate return of the security deposit.*

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1. Elderly and handicapped tenants are allowed pets in state-aided public housing, but they must provide the Authority with a security deposit of \$160 or one month's rent, whichever is less.

## Reasons for Incomplete Pet Deposit List

The Authority's former managers did not maintain an accurate and up-to-date accounting record of tenants' pet deposits.

## Recommendations

1. The Authority should perform a review of its pet deposit bank account and individual tenant records to prepare and maintain a complete and up-to-date list of all individual tenant pet deposit balances. If money is owed to tenants who have moved out, the Authority should attempt to return it to them or submit it to the Commonwealth if it is considered abandoned property under Chapter 200A of the General Laws.
2. The Authority should maintain the tenant pet deposit account list so as to reflect the accurate current balance for each tenant.
3. The Authority should periodically reconcile the tenant pet deposit account list to the pet deposit bank balance.

As with other issues, the Authority's current managers were not certain why these problems had occurred under the previous leadership.

## Auditee's Response

*Upon the transfer of management to Leominster Housing Authority, the escrow record keeping was found to be inadequate and tenant escrow balances were questionable. Leominster immediately contacted Fidelity bank to establish separate escrow accounts for each tenant that had a pet. Housing Authority tenant files are being updated . . . and at this time we will confirm whether the tenant has a pet and paid a deposit on said pet. These bank escrow accounts are reconciled on a monthly basis. The Housing Manager has created and enforced a pet policy and procedure that incorporates MA law of pet security. We continue to reconcile the unidentified funds held on deposit. Any funds owed to tenants will be returned.*



## APPENDIX A

### **Resolution Authorizing the Executive Director of the Leominster Housing Authority to Act in Place of the Executive Director of the Fitchburg Housing Authority**

*Motion 2013-08-01*

*Whereas: The Board of the Fitchburg Housing Authority and the Department of Housing and Community Development is desirous of strengthening the leadership of the Fitchburg Housing Authority and,*

*Whereas: A letter of agreement between the Leominster and Fitchburg Housing Authorities dated July 15, 2013 is now in place and,*

*Whereas: The Leominster Housing Authority has agreed to act in the capacity of Executive Director of the Fitchburg Housing Authority, assuming all of the responsibilities of the position,*

*Now Therefore Be It Resolved,*

*That the Fitchburg Housing Authority hereby appoints the Leominster Housing Authority to assume the position of Executive Director of the Fitchburg Housing Authority effective August 22, 2013.*

*Resolved, Motion made by Commissioner Linda Byrne (2013-08-01) to authorize the Leominster Housing Authority to fulfill the role and responsibilities of the position of Executive Director of the Fitchburg Housing Authority.*

*Commissioner Fontaine seconded the motion, and the motion was passed by a unanimous vote.*

## APPENDIX B

### Letter from the Department of Housing and Community Development to the Leominster Housing Authority



Commonwealth of Massachusetts  
**DEPARTMENT OF HOUSING &  
COMMUNITY DEVELOPMENT**

Deval L. Patrick, Governor ♦ Aaron Gornstein, Undersecretary

October 17, 2013

Mr. Eugene Capoccia, Executive Director  
Leominster Housing Authority  
100 Main Street  
Leominster MA 01453

Re: Management Services Agreement and Management  
Work Plan for the Fitchburg Housing Authority

Dear Mr. Capoccia:

DHCD has reviewed and approved the Management Services Agreement (Agreement) between the Fitchburg and the Leominster Housing Authorities with the following condition. The Agreement states that a Management Work Plan (Plan) must be completed by October 18, 2013. However, the Plan is still in the process of review due to the changes in budget; the implications of the Cost Center charges; and the listed deficiencies and goals. We, therefore, are extending the date for completion of the Plan to no later than October 31, 2013. DHCD approval of the Plan is required and once approved the Plan is incorporated in the Agreement.

While we continue to review the Management Work Plan we are authorizing expenditures not to exceed \$200,000 as an exemption to the Fitchburg Housing Authority's FYE 12/31/13, 400-1 operating budget for the hiring of additional staff as well as the expenditures for two (2) trucks, the lawn equipment, and the office copier.

We look forward to meeting with you next week to review a side by side comparison of current and proposed staffing at the Fitchburg Housing Authority as well as an explanation of the impact on the Leominster Housing Authority staffing.

Enclosed are two copies of the approved Agreement for your distribution. We are retaining one copy for our files.

Sincerely,

*Lizbeth Heyer*  
Deputy Associate Director

*LH* Lizbeth Heyer, Associate Director  
Division of Public Housing and Rental Assistance

cc: Greg Lisciotti-Chair, Leominster Housing Authority  
Joseph L. Melanson- Chair, Fitchburg Housing Authority  
File

## APPENDIX C

### Management Services Agreement

# MANAGEMENT SERVICES AGREEMENT

This Management Services Agreement is executed as of this 18th day of September, 2013, but effective as provided below, by and between the Fitchburg Housing Authority hereinafter called "FHA" or the "Owner", and the Leominster Housing Authority, hereinafter called the "Contractor."

The purpose of this Management Services Agreement, hereinafter called the "Contract" is to set forth the terms and conditions of a contract under which the Contractor will provide assistance to carrying out the day-to-day operations of the FHA.

The Owner and the Contractor, hereby agree as follows:

**Article 1. Scope of Work.** The Contractor shall perform all the "Work" (hereinafter defined) for the administration of the FHA, including but not limited to all planning and coordinating of all functions and all phases of the FHA's operations and the maintenance of the FHA property, and will be responsible for working with the existing FHA staff in performing the duties identified. The Contractor will operate within the parameters of pertinent Massachusetts General Laws, regulations and guidelines of the Department of Housing and Community Development ("DHCD"), and other laws, rules and regulations pertaining to the operations of the FHA. No later than October 18, 2013, the Owner and the Contractor shall develop a Management Work Plan which shall be attached hereto and incorporated by reference herein. The Management Work Plan shall detail the scope of the "Work" to be performed by Contractor under this Contract, and will list deficiencies to be corrected at the FHA, establish goals, and set out the method and means by which these deficiencies will be corrected and these goals will be met by the Contractor.

**Article 2. FHA Board Responsibilities.** The FHA Board agrees to provide Contractor with access to the FHA office and FHA property and to provide access to any FHA records requested.

**Article 3. Term of Contract.** The Contractor shall commence work under this Contract on September 18, 2013. This Contract shall become effective upon validation by DHCD, and, unless terminated sooner in accordance with Article 4 below, shall terminate five (5) years from its effective date.

**Article 4. Termination.** Contractor and Owner shall have the right to terminate this Contract for failure of Contractor and Owner to agree upon a Management Work Plan to be approved by the DHCD that will be incorporated herein no later than October 18, 2013.

Owner may terminate this Contract only "for cause." For purposes of this Contract, "for cause" shall include but not be limited to situations in which: (a) Contractor has committed any intentional violations of this contract or state law, or has committed any fraud, embezzlement or similar act of dishonesty against the Owner, or; (b) Contractor has failed to meet its responsibilities or goals under this Contract including failure of the Contractor to meet the agreed upon Management Work Plan

responsibilities or goals, which failure (i) is not due to matters beyond the reasonable control of Contractor, and (ii) continues for more than thirty (30) days after Contractor had received written notice from Owner, which notice had stated that Contractor had failed to meet its responsibilities or goals and specified the manner in which Contractor had so failed to meet its responsibilities or goals.

Contractor shall have the right to terminate this Contract at any time for any material default by Owner in the performance of its duties hereunder, provided that Contractor shall give Owner thirty (30) days written notice and an opportunity to cure such default during such period.

This Contract shall automatically terminate on the effective date of any legislation that may be enacted during the term of this Contract that dissolves, merges, reorganizes, consolidates, and/or regionalizes the Contractor or the Owner.

Upon any termination of this contract, Contractor and Owner shall cooperate reasonably to unwind the Contractor's role hereunder in a timely and orderly manner and Contractor shall be compensated for any time expended and costs incurred by Contractor per the termination at the same rates Contractor was receiving on the date of termination unless the termination was due to a default by Contractor.

**Article 5. Contract Sum.** The Owner shall pay the Contractor for the performance of the Work under this Contract a management fee of forty (\$40.00) dollars per unit per month, for each unit managed by the Contractor under the three Federal Section 8 Housing Choice Voucher Programs, the State ch.667 and ch.200, 689, 705 and Federal public housing programs. The management fee for MRVP units will be at thirty (\$30) per month. For purposes of clarification, Owner and Contractor agree and acknowledge that the current number of housing units in each FHA program to be managed by the Contractor is attached hereto as Exhibit A. Payments will be made in arrears on a monthly basis no later than the fifteenth (15th) day of each calendar month based on the number of housing units for the prior calendar month.

In addition to the management fee above, the Owner will pay the Contractor for the administration of any "Development and or Modernization Programs" implemented by Contractor in accordance with the approved DHCD Schedule.

**Article 6. Conflict of Interest.** The Contractor covenants that (1) presently, it has no financial interest and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract or which would violate M.G.L. c.268A, as amended or violate the federal conflict of interest provisions at 24 CFR 570.489 and the Federal Hatch Act, 5 U.S.C. ss. 1501 et seq; (2) in the performance of this Contract, no person having any such interest shall be employed the Contractor; and (3) no partner or employee of Contractor is related by blood or marriage to any Board Member or employee of FHA.

**Article 7. REAP Certification & Certification of Non-Collusion.** Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A, Contractor certifies under the penalties of perjury, that to the best of its knowledge and belief, it is in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support. Contractor certifies under penalties of perjury that its bid/proposal has been made in and submitted in

good faith and without collusion or fraud with any other person. As used in this certification, the work "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

**Article 8. Equal Opportunity.** The Contractor shall not discriminate in employment against any person on the basis of race, color, religion, national origin, sex, sexual orientation, age, ancestry, disability, marital status, veteran status, membership in the armed forces, presence of children, or political beliefs. The Contractor will use its best efforts to employ qualified tenants of all housing agencies managed by the LHA including FHA, SHA and LuHA for any positions which are open at the time this Contract is effective or which become open during the term of this Contract.

**Article 9. Governing Law & Contract Validation.** This Contract shall be governed by the laws of the Commonwealth of Massachusetts. This Contract will not be valid until signed by the Director of the Department of Housing and Community Development or his/her designee.

In Witness Whereof, the Parties Hereto Cause This Instrument to be Executed Under Seal.

**CONTRACTOR**

LEOMINSTER HOUSING AUTHORITY

By: Eugene J. Capoccia  
Eugene J. Capoccia, Executive Director

Witness: [Signature]

**AWARDING AUTHORITY**

FITCHBURG HOUSING AUTHORITY

By: Joseph L. Melanson  
Joseph L. Melanson, Chair

Witness: [Signature]

Approved by

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

By: Sarah M. Hassman  
Deputy Associate Director  
(Name & Title)

10/17/13  
Date